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### Production of *yoshon* flour in a mill used for *chodosh*

July 2005

On July 20, 2005, a number of *kashrus* professionals met with Cargill at their Albany facility to discuss this year's *yoshon* flour production. In addition to some Cargill representative, the following people participated in the meeting:<sup>1</sup>

- R' Bomzer and R' Berger of the Va'ad HaKashrus of the Capital District, who are the RFRs for *hashgachah* and *yoshon* at the Albany facility;
- R' Binyamin Taub, who is the "other" certification on Dependable Foods' *yoshon* flour (and other items);
- R' Klein, a *Satmar Dayan*;
- R' Doneal Epstein, who is the RC for Cargill (although R' Gorelik is responsible for their *yoshon*).

This document details a number of issues which were raised at the meeting, as reported to me by R' Bomzer (whom I spoke to by phone) and R' Taub (whom I met in person in July 28 at Camp Agudah). I also added some information provided by Clint Zenk (Cargill) in his report of the meeting and in our phone conversation. I discussed these issues with Rav Belsky on July 29, and his rulings are presented after each of the "questions".

### Introduction

During July and August, Cargill receives many, 60-car, trainloads of grain, which are transferred into Cargill's huge, aboveground or underground, cement silos. Most of these loads are from this year's harvest, while a few are from last year's spring wheat<sup>2</sup> and are designated for the *yoshon* productions. When Cargill is ready to temper, mill and package the grain, they transfer the grain via tunnels and hose lines to mid-sized stainless steel silos.<sup>3</sup> Cargill refers to the cement silo area as CGD (Cement Grain Delivery?) and the steel-silo area is known as "Horizon".

<sup>1</sup> Contact information: R' Taub – 917-468-4762 (c); R' Bomzer – 518-727-5566 (c) [mbomzer@aol.com](mailto:mbomzer@aol.com) & [vhd51@yahoo.com](mailto:vhd51@yahoo.com); Clint Zenk – 518-447-1744.

<sup>2</sup> Contrary to popular belief, Cargill produces *yoshon* flour from year-old spring wheat rather than from current-year winter wheat.

R' Klein said that Rav Moshe Bick had suggested that in leap years, *Pesach* is so late in the planting season that most/all of the wheat is rooted before *Pesach* and all of the flour is *yoshon*. Cargill was unable to substantiate this. It is noteworthy that the US government prints weekly reports that show the level of growth of each crop (in each state). The reports for the week of *Pesach* indicate that most wheat is not *yoshon*. [I've read these reports myself for a few years (but not this year) and Mr. Herman does it every year. He did report that this year (which was a leap year) most American barley is *yoshon*, but Canadian barley (and the other grains, in both countries) is not.

It seems that at the meeting, someone suggested that they use current-year grain from fields that are known to have planted their wheat more than 3 weeks before *Pesach*. However, Cargill said this would be too difficult to trace, especially because they get their spring wheat from North Dakota where wheat is planted during March and April (the 3<sup>rd</sup> day of *Pesach* can be from March 28-April 27). In addition, Cargill buys from grain elevators who buy the wheat from many (relatively) small farmers, with whom Cargill has no contact; this makes it almost impossible for Cargill (and even the elevators) to guarantee that an entire bin is from wheat planted before a certain day.

<sup>3</sup> Cargill refers to the smaller silos as "steel" because many of them are stainless steel, but there are also some cement silos in the "steel" section.

## Relying on paperwork to identify yoshon grain

Cargill's computer records show many details about each load of grain, including where and when it was harvested. These records are "attached" to every load of grain, and are used for Cargill's internal quality assurance (e.g. to differentiate between protein levels which fluctuate from year to year),<sup>4</sup> and are not designed especially for *yoshon* tracking.

1. Currently, the OU's *yoshon* certification begins when the grain arrives in Albany, and we rely on the aforementioned paperwork to prove that the grain in question is *yoshon*. Is this sufficient, or must someone identify and seal the grain in the granary before any *chodosh* is harvested, and then have *hashgachah* and seals when the grain is transferred from the granary to the train?

**General response:** Rav Belsky's overall reaction to this question and the others posed below was that the OU must insist that Cargill isolate and seal (the inlet to) cement silos containing *yoshon* grain weeks before the *chodosh* grains are even harvested. This should be done in May or June, as per timely information from the USDA regarding when the current year's spring wheat is being harvested, and under the watchful eye of a *Mashgiach*. Paperwork is a way to confirm information and check up on a company, but shouldn't become a substitute for traditional *hashgachah*.

It is too late to implement this system for this year, and Rav Belsky reluctantly agreed that for this year's produce we could rely on a careful analysis of the company's paperwork, and noted that we must physically verify cleanliness, flushes and other necessary steps, before allowing loading or transfer of *yoshon* grain.

2. *Yoshon* grain arrives in Albany during the summer just like *chodosh* does, but Cargill claims that they don't let any *chodosh* into the plant until all of the *yoshon* has been delivered. Should the *Mashgiach* confirm this? Can he rely on Cargill paperwork for this confirmation?

Rav Belsky said that in the unfortunate situation where *yoshon* is delivered during the summer at a time that *chodosh* is already in the market (see "general response" above), no *yoshon* may be delivered to the plant until the *Mashgiach* verifies that no *chodosh* has been delivered. This requires the *Mashgiach*'s physical presence in the plant in the days preceding the *yoshon* delivery, a good understanding of the plant's method of operation, and an appropriate level of 'detective work'.

3. Should the *Mashgiach* check the paperwork identifying the grain as *yoshon* before it is unloaded into the cement silos or may he wait until the end of the deliver season (i.e. after it is already in the silo)?

Before!

<sup>4</sup> In addition to the differences from year to year that depend on environmental factors, storage of the wheat also affects its physical properties.

## Cleanliness of silos

Cargill's silos have a cone-shaped bottom so that all of the grain can be removed from the bottom of the silo, thereby protecting the integrity of the subsequent grain loaded into the silo. Cargill guarantees that the silos are empty by dropping in a measuring stick, visual checks into the bottom and sides, and weighing. In addition, one can go underground and "bang" on the bottom of the cone to hear if it is empty/hollow. Although they are confident that a "clean" silo has no grain left in it, they cover themselves by saying that they're 99% sure it's empty.

*Chodosh* is a *davar sheyesh lo matirim* and therefore cannot be *batel* into *yoshon*.<sup>5</sup> As such, *yoshon* cannot be produced if there is even a bit of *chodosh* left in the equipment. In order to deal with this concern as relates to the milling and packaging of *yoshon* in a *chodosh* plant, the OU requires a flush of the equipment with *yoshon* flour (and that flour is sold as *chodosh*) before the *yoshon* packaging begins.<sup>6</sup>

4. Should the *Mashgiach* visit before the *yoshon* grain is delivered to personally make sure the cement silo designated for *yoshon* is empty, or may he come after it is delivered and rely on Cargill's records which indicate that it was clean?

Rav Belsky was emphatic that, in the unfortunate situation where *yoshon* is delivered during the summer at a time that *chodosh* is already in the market (see "general response" above), a *Mashgiach* must personally verify the cleanliness of the tanks via visual inspection, "banging" on cones, and any other method available in the plant.

5. The huge cement silos aren't directly flushed clean (and I'm not sure this is even possible). However, Cargill claims that the first *yoshon* grain transferred to the steel silos is sold as non-*yoshon* to guarantee that any possibly *chodosh* grain left in the cement silo isn't sold as *yoshon*.

- a. Is this sufficient to avoid concerns of a *mashehu* of *chodosh* being mixed in (as it is in the packing area)?

Yes, as per the rationale outlined regarding the packing facility (see © Z-50).

- b. If yes, what method should be used to verify that the first grain isn't sold as *yoshon* – (a) *Mashgiach* being present during the "diversion", (b) paperwork from Cargill, (c) trust Cargill?

The *Mashgiach* must definitely be present during the flush to make sure the company actually packages the first grain as *chodosh*. The exact definition of how large this flush should be, is an issue which requires further study.

- c. If Cargill did not make the aforementioned flush, would we be allowed to rely on their cleaning as a guarantee that there is no *chodosh* in the silo?

Rav Belsky didn't comment on this question.

In this context it is noteworthy that one of Rav Schachter's reasons to be lenient regarding milling of *yoshon* flour was that even "*mashehu*" has a limit, and therefore if there is only 1

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<sup>5</sup> See © Z-50.

<sup>6</sup> For details on why that suffices, see © Z-50.

part of *chodosh* for every 1,000,000 parts of *yoshon*, the *chodosh* is *batel*. It would appear that this line of reasoning would apply to the huge, cement silos where any possible leftover *chodosh* grains would be *batel* in the millions of grains of *yoshon*.

## Tanker trucks

For the first time, Cargill and Dependable are considering shipping some *yoshon* flour in tanker trucks, which will not be dedicated to *yoshon* service.

6. The trucks are washed with water (as in a traditional truck wash) every other time they are to be filled with flour. May we rely on the cleaning; is a special cleaning required; and/or should the *Mashgiach* make a visual inspection of the tanker? In inspecting the tanker, how can the *Mashgiach* know that there is not even one bit of *chodosh* flour left in the truck or pipes?

To better understand this issue, R' Bomzer (a) is going to get a copy of the truck wash protocol, (b) may go to the truck wash to see how clean trucks generally get, and (c) may consult with R' Horowitz from Manischewitz to learn how they guarantee that the flour-truck is truly clean.

Rav Belsky agreed that if the truck is washed with water and is subsequently checked by a *Mashgiach*, it may be used for *yoshon* flour. More research is required to identify (a) if there is a specific type of cleaning that does the best job, and (b) those parts of the truck or hoses that are least likely to be effectively cleaned and therefore require the most attention from the *Mashgiach*.

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כ"ט תמוז תשס"ה לפ"ק  
ישראל הלוי בעלסקי

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